

ORIGINAL

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1/12/01  
w/j

IN THE UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

RYAN MICHAEL KERWIN

: CIVIL ACTION #. 1:00-cv-01986

VS.

: JUDGE WILLIAM W. CALDWELL

S.C.I. SMITHFIELD,

FILED  
HARRISBURG

ET AL., DEFENDANTS

JAN 11 2001

MARY E. DIANDREA, CLERK  
Per GFS DEPUTY CLERK

MOTION TO AMEND ORIGINAL

CIVIL COMPLAINT

RYAN M. KERWIN, THE PETITIONER IN THIS CASE FILED A SECTION 1983 CIVIL COMPLAINT IN THIS HONORABLE COURT ON NOVEMBER 15, 2000. THIS PETITIONER NOW REQUESTS THAT THIS COURT ALLOW HIM TO AMEND HIS CIVIL COMPLAINT (# 1:00-cv-01986) PURSUANT TO RULE 17, A1 AND A2 OF THE FEDERAL RULES OF PROCEDURE. THE AMENDMENTS THIS PETITIONER WISHES TO MAKE ARE AS FOLLOWS:

1. TO ADD THE FOLLOWING DEFENDANTS TO THE COMPLAINT:

ROBERT S. BITNER, OFFICE OF CHIEF COUNSEL

JAMES M. MORGAN, SUPERINTENDANT OF S.C.I. SMITHFIELD

PROGRAM REVIEW COMMITTEE MEMBERS

A.C. BIVIANO, DEPUTY FOR CENTRALIZED SVS.

M. HARLOW, CAPTAIN

F.R. ROYER, A/CORR. CLASS. AND PROGRAM MANAGER

2. TO SUE ALL DEFENDANTS IN THIS CASE IN THE OFFICIAL AND INDIVIDUAL CAPACITY

3. TO ADD "WRONGFUL IMPRISONMENT" TO MY GROUNDS FOR DAMAGES

4. TO CHANGE THE RELIEF SOUGHT IN THIS CASE AND NOW ASK FOR ONE OR ALL OF THE FOLLOWING DAMAGES IN EXCESS OF \$4,200.00 (COMPENSATORY, NOMINAL, PUNITIVE, EXEMPLARY)

5. TO ADD THE RESPONSE FROM THE CHIEF HEARING EXAMINER TO MY COMPLAINT AS EXHIBIT K (FORM ATTACHED) AND EXHIBIT L (FORM ATTACHED)

WHEREFORE, THIS PETITIONER RESPECTFULLY REQUESTS THAT HE BE ALLOWED TO AMEND HIS 1983 CIVIL ACTION AND ADD THE FOREGOING ISSUES TO HIS COMPLAINT

RESPECTFULLY,

Ryan Kerwin

RYAN KERWIN

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COMMONWEALTH OF PENNSYLVANIA  
 DEPARTMENT OF CORRECTIONS  
 Office of the Chief Hearing Examiner  
 1451 North Market Street  
 Elizabethtown, PA 17022

INMATE NAME: BRYAN KERWIN INMATE #: D20246

INSTITUTION: SMITHFIELD WONE

FROM: Robert S. Bitner Bitner  
 Chief Hearing Examiner

Grievance/Misconduct Number, if relevant

DATE: 8-30-00

This is to acknowledge receipt of your letter to the Central Office. Upon review of the issue(s) you raise, I am filing your letter without action for the following reason(s):

1.  You have not utilized the official inmate grievance system as outlined in DC-ADM 804 in your inmate handbook.
2.  You need to include the official identification number of the misconduct / grievance.
3.  You need to identify the specific publication(s) you are appealing.
4.  According to institution records, you have not completed appeal to the Superintendent.
5.  Your claim to have appealed to the Superintendent without response does not entitle you to direct appeal to final review. Contact the Superintendent's office to ensure they received your appeal.
6.  The COMRC has been abolished per DC-ADM 804-1, effective May 20, 1996. The next step in the appeal process of your medical grievance is to send your appeal to the Superintendent.
7.  Your appeal to final review is unacceptably untimely.
8.  Staff responses, including the Superintendent, to inmate request slips are not appealable to Central Office.
9.  Your initial confinement to Administrative Custody may be appealed through final review in accordance with DC-ADM 802. Pursuant to DC-ADM 802-3, c, there is no appeal beyond the Superintendent of a thirty (30) day review before the Program Review Committee.
10.  Your Administrative transfer to another institution is not appealable to Central Office.
11.  This office has no prior record of receipt of an appeal from you on this issue.
12.  You have already received final review of this issue.

ADDITIONAL COMMENTS: *M Kerwin, you don't need to send me the record of the misconduct. I'll get it from Smithfield, BUT I need the misconduct ID number to get the record.*

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF CORRECTIONS  
1451 N. MARKET STREET  
ELIZABETHTOWN, PA 17022

OFFICE OF THE  
CHIEF HEARING EXAMINER

September 26, 2000

Ryan Kerwin, DZ-0246  
SCI Smithfield

Re: DC-ADM 801 - Final Review  
Misconduct No. 996613

Dear Mr. Kerwin:

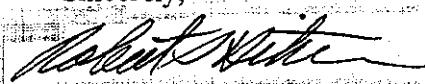
This is in response to your appeal to final review of the above numbered misconduct.

In accordance with DC-ADM 801, VI, L, 3, I have reviewed the entire record of this misconduct; including the misconduct report, the hearing report and related documents, your appeal to the Program Review Committee and their response, your appeal to the Superintendent and his response. I have also thoroughly reviewed the issues you raise to final review.

The issues you raise to final review have already been addressed by the Program Review Committee and the Superintendent. On review of the record, this office concurs with their responses. I find no persuasive basis from which to conclude that the Examiner erred in conducting the hearing. The Examiner specifically documented findings of fact based on evidence presented at the hearing to support the decision. The procedures followed were in complete accordance with DC-ADM 801, §VI. The sanction imposed is not viewed to be disproportionate to the offense, and therefore will not be amended at this level.

For the above-stated reasons, the responses provided by the Program Review Committee and the Superintendent are upheld in full. Your appeal must, therefore, be denied.

Sincerely,

  
Robert S. Bitner  
Chief Hearing Examiner

RSB:bjk

pc: Superintendent Morgan